

The Standards must be read in conjunction with the Rules Governing the State Bar of California Program for Certifying Legal Specialists which Govern the Program Requirement.

THE STANDARDS FOR CERTIFICATION AND RECERTIFICATION IN REAL ESTATE LAW

1.0 DEFINITION

Real estate law is the practice of law dealing with matters of or related to conveying, developing, financing, leasing, managing and owning real property, the improvements thereon and appurtenances thereto, and the litigation, arbitration and mediation of controversies arising therefrom.

2.0 TASK REQUIREMENT FOR CERTIFICATION

An applicant must demonstrate that within the five years immediately preceding the initial application, he or she has been substantially involved in the practice of real estate law as it relates to transactions and/or litigation. A prima facie showing of substantial involvement in the area of real estate law is made by the applicant's completion as Principal Counsel or as an arbitrator, mediator or judge pro tem, within the required time period, of at least 2000 hours of work on behalf of a client or clients with at least 300 hours in each of at least two designated practice areas (DPA's).

2.1 Principal Counsel is the attorney, including in-house counsel, who is responsible (on a reporting basis) to a client for the preparation, documentation, negotiation, review or filing in any case, transaction or dispute resolution proceedings (litigation, arbitration or mediation), and/or the attorney who is responsible for advising the client, analyzing a matter on behalf of the client, evaluating which course of action the client should take, and making recommendations to the client on the best course of action to take in matters involving Real Estate Law. More than one attorney may be a Principal Counsel in a matter.

2.2 In interpreting the scope of the DPA's listed below, an attorney is deemed to be substantially involved in such an area if he or she is involved in the documentation and negotiation of the transaction and/or if the attorney is involved in counseling clients in the enforcement of remedies or in litigating disputes arising out of contracts, interests or rights in such practice area.

3.0 DESCRIPTION OF DESIGNATED PRACTICE AREAS

Representation of governmental entities, property owners, or interested parties in the following:

- 3.1 Land Use and Development, and Environmental Matters:** including, but not limited to, variances, change in use or occupancy, plan amendments, re-zoning ordinances, use permits, compliance with environmental acts, environmental liabilities and property restrictions, and entitlements for operations or permits.
- 3.2 Eminent Domain and Inverse Condemnation:** including, but not limited to, regulatory and physical takings, invasions of property, and damage to real property occasioned by governmental action.
- 3.3 Brokerage and Other Real Estate Professionals:** including, but not limited to, real estate association arbitration or ethics hearings, listing, commission, or finder's fee agreements, disclosure statements, escrow instructions, title and inspection reports, and compliance with ethical standards or legal duties.
- 3.4 Ownership and Adjoining Owners :** including, but not limited to, boundary line issues, easements, maintenance/cost sharing agreements, nuisance/trespass issues, encroachments, disputes between co-owners, ownership entities, property management, insurance and property taxation.

- 3.5 Agricultural and Ranch :** including, but not limited to, property purchase, financing, refinancing or lease, crop share and farm management agreements, water supply transactions, environmental limitations, compliance with Farm Services Agency (FSA) requirements, and permits.
- 3.6 Construction and Design:** including, but not limited to, contracts or other construction related agreements, lien enforcement remedies and responses, agreements for design professionals, contractor claims, construction defects, breach of contracts, warranty issues, and issues surrounding hazardous materials, mold and asbestos.
- 3.7 Finance and Secured Transactions:** including, but not limited to, loan commitment letters and agreements, trust deeds, title review, rent assignment, hazardous substance agreement, construction loan issues, structuring of loan transactions, and default proceedings.
- 3.8 Common Interest Developments:** including, but not limited to, declaration of restrictions (CC&Rs), homeowner association articles of incorporation and bylaws, purchase agreements, warranties, dispute resolution procedures, plan and budget reviews, affordable housing restrictions, senior housing requirements, assessment allocation and collection actions, and construction defect issues/disputes.
- 3.9 Commercial Leasing:** including, but not limited to, leases, reciprocal easement agreements or shopping center/business park CC&Rs, expansion and extension options and rights of first refusal, letters of intent, listing, commission, or finders fee agreements.
- 3.10 Residential Leasing:** including, but not limited to, offers and agreements to lease or rent, notices to perform or quit, unlawful detainer proceedings, compliance with rent control laws, retention or recovery of security deposits, and mobile home residency law.
- 3.11 Real Property Transfers:** including, but not limited to, acquisition and sale or other transfer of real property or interest thereon, closing of real property sale or transfer, preparation of post-closing issues and document instructions.
- 3.12 Escrow and Title Insurance:** including, but not limited to review and negotiation of title company and escrow company's standard forms, preparation of closing and post-closing documents, license and indemnity agreements.
- 3.13 Natural Resources:** including, but not limited to, entitlements and compliance issues relating to natural resource requirements of administrative/regulatory agencies, agreements for the transfer of rights in natural resources, and means of establishing natural resource entitlements of real property.

4.0 EDUCATIONAL REQUIREMENT FOR CERTIFICATION

An applicant must show that within the three years immediately preceding application, he or she has completed not less than 45 hours of educational activities specifically approved for real estate law.

5.0 TASK REQUIREMENT FOR RECERTIFICATION

An applicant for recertification must show that during the current five-year certification period, he or she has had direct and substantial participation in the practice of real estate law. Such showing shall be made by compliance with the requirements set forth in section 2.0 or, at the discretion of the Commission, by sworn statement that the applicant has engaged in the practice of real estate law substantially to the same extent as described in the application for original certification.

6.0 EDUCATIONAL REQUIREMENT FOR RECERTIFICATION

An applicant for recertification must show that during the current five-year certification period he or she has completed not less than 60 hours of educational activities specifically approved for real estate law.